

Remarks

A one month extension of time for response until January 4, 2004 (Monday, January 5, 2004) is requested and the fee therefore is enclosed.

In the official action, the Examiner made the restriction requirement final arguing that the restriction was based upon a lack of unity based upon 35 U.S.C. 371 under PCT practice rather than a restriction based upon U.S. Practice. It should be pointed out that arguments based upon U.S. Practice translate almost directly into arguments against lack of unity under PCT practice and in addition permit claims to remain together in an application that might be restricted under more restrictive U.S. Practice.

In this case it is the Examiner who is not recognizing the differences between U.S. And PCT practice. The Examiner argues that "different" searches are required. This is not a reason for finding lack of unity under PCT practice but is a unique to U.S. Practice.

The Examiner also argues that the apparatus of Claim 3 could be used without infringing the method of claim 2. This is clearly not a basis for finding lack of unity and in fact is prohibited as a reason for finding lack of unity. The Examiner's attention is drawn to MPEP 1850 C. "The method for determining unity of invention under PCT Rule 13 **shall be construed as permitting**, in particular, the inclusion of any of the following combinations of claims of different categories in the same international application: ...(B) **In addition to an independent claim for a given process, an independent claim for an apparatus** or means specifically designed for carrying out the said processes... Also an apparatus or means shall be considered to be specifically designed for carrying out a claimed process if the contribution over the prior art of the apparatus or means corresponds to the contribution over the prior art. Consequently, it would not be sufficient that the apparatus or means is merely capable of being used in carrying out the claimed process. **However, the expression specifically designed does not imply that the apparatus or means could not be used for carrying out another process, nor that the process could not be carried out using an alternative apparatus or means.** " (emphasis added)

**The Examiner has given no permissible reason for lack of unity and the restriction should be withdrawn.**

The Examiner has provisionally rejected Claim 2 for double patenting over Claim 15 of co-pending Application Number 10/221,597 in view of Henderson (1,654,253), Blades (3,767,756) or EP 0 483 562 A1. This rejection is improper and should be withdrawn.

Claim 2 of the current patent application requires that the apparatus include a tubular member for containing precipitation means and for receiving an extruded blown film. **As clearly pointed out beginning at line 16 of original page 7 of the specification, the tubular member may be used as a guide for the extruded tube and may be used to protect the tube from disturbances in the precipitation medium thus resulting in improved uniformity of the tube wall thickness.** The tubular member also acts to control flow of precipitation medium around the tube and may be transparent to permit observation of the tube as it is formed thus providing quality control. (page 8 of the original specification) .

Claim 15 of co-pending application 10/221,597 neither discloses nor suggests a tubular member for any purpose and certainly not for containing precipitation means and for receiving extruded blown film and especially not such a tubular member situated within a precipitation bath as Claim 2 is currently amended. Claim 2 is thus clearly unobvious to one skilled in the art over co-pending application 10/221,597. It should be further pointed out that current Claim 2 does not disclose or suggest the required dual bubble of Claim 15 of 10/221,597. These claims are thus unobvious over each other and obviousness type double patenting is not possible.

None of the cited Henderson, Blades or EP 0 483 562 A1 cure these critical defect of co-pending application 10/221,597.

None of Henderson, Blades or EP 0 483 562 A1 disclose or suggest a tubular member within a precipitation bath for any purpose. To the extent that any of the structures of these references might be construed as tubular members, they are not situated within a precipitation bath as required by the presently pending claims but themselves may act as baths having walls distally removed from the extruded tube thus not being in any way functionally equivalent to the tubular member in the apparatus of the present invention. It should be further pointed out that Blades is not even concerned with extruding tubes but is rather concerned with filaments. Apparatus for extruding filaments is hardly suitable for extruding films and does not suggest such an apparatus.

The double patenting rejection is clearly improper and should be withdrawn.

Claim 2 has been rejected under 35 U.S.C. 102 as being anticipated by any of Henderson, Blades or EPO 0 483 562.

These rejections are improper.

The Examiner has contended that container 11 in Henderson is equivalent to the tubular member recited in pending Claim 2. This is simply not the case. Container 11 in Henderson merely holds regenerating liquid into which a tube is extruded. (See e.g. page 3, lines 82-85 of Henderson) It should be noted that container 11 of Henderson has sidewalls distally removed from the extruded tube and container 11 is not itself situated within a precipitation bath as required by Claim 2.

In the presently claimed invention, the tubular member has the specific function of improving the uniformity of the tube wall thickness which not only results in uniform expansion

properties but mitigates against undesirable color variations in the extruded product. In contrast, Henderson relates to forming curved thin-wall seamless sausage casings and is purposefully directed to forming walls of unequal thickness which has the result of producing curved casing. (page 2, lines 9-16 and 22-24 and page 4, lines 90-94 and 106-108 of Henderson).

**Henderson thus clearly does not anticipate the presently claimed invention but in fact teaches away from it. The rejection over the Henderson reference is thus clearly improper should be withdrawn.**

The rejection based upon Blades is similarly improper. The Examiner has alleged that Blades discloses a tubular member 11 that anticipates the tubular member claimed in pending Claim2. This is clearly not the case. Tubular member 11 of Blades is merely a regenerating liquid holding container and again it can be clearly seen that the walls of container 11 are distally removed from the extruded material and **container 11 of Blades is not itself situated within a precipitation bath as required by Claim 2.** It should be further pointed out that present Claim 2 requires an extrusion means to extruding a cellulose solution to produce a cellulose film. Blades contains no such structure but rather has structure for producing filaments.

**Again, Blades clearly does not anticipate the presently claimed invention but in fact teaches away from it. The rejection over the Blades reference is thus clearly inappropriate and should be withdrawn.**

The rejection based upon EPO 0 483 562 A1 is similarly flawed. EP 0 483 562 isn't even related to the present invention but rather relates to thermoplastic heat extrusion. There is no precipitation means at all and no tubular member situated within a precipitation bath. **The**

**rejection of Claim 2 in view of EP 0 483 562 A1 reference is clearly improper and should be withdrawn.**

In view of the foregoing amendments and remarks, it is submitted that the application is in condition for allowance, which action is courteously requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael L. Dunn", followed by a horizontal line.

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